

REMARKS

This application has been carefully reviewed in light of the Final Office Action dated June 23, 2006. Claim 1 has been amended. Claim 2 has been cancelled. Claims 1 and 3-13 are currently pending in the application. Further review is requested in light of the following remarks.

Claims 1-13 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Böhm et al. (5,230,940) in view of Beggs et al. (4,384,020). This rejection is respectfully traversed.

The rejection of claims 1-13 focuses on claim 1, and provides no explanation as to why independent claims 6 and 10 have been rejected. Nor does it specifically address why the dependent claims 2-5, 7-9 and 11-13 have been rejected. Additionally, there has been no response to the Applicant's arguments regarding claims 6-13, as set forth in Applicant's response dated April 12, 2006. Accordingly, those arguments have been set forth again, below.

The Examiner has stated (citing *In re Keller*, 642 F.2d 413, 208 (CCPA 1981) and *In re Merck & Co.*, 800 F.2d 1091, 231(Fed. Circ. 1986)) that "one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references." While it is correct that nonobviousness cannot be established by attacking references individually where the rejection is based on the teachings of a combination of references, the references as a whole have to suggest or teach the

invention to one of ordinary skill in the art at the time of the invention. Thus, the references combined must show or teach all of the elements of the invention being claimed. If none of the references teach a particular element of the invention, then those references do not teach the invention as a whole.

In Applicant's response dated April 12, 2006, Böhm et al. and Beggs et al. were merely discussed individually to clarify what each of the references did or did not disclose. Applicant showed that in each of the claims, there was an element that neither Böhm et al. or Beggs et al. taught, thus, combining those references would not teach the invention as a whole. For example, with reference to claim 6, neither Böhm et al or Beggs et al. teach a system using a resin feeder to apply a resinous material in sheet form onto a backing roll, and perforating the resinous material on the backing roll with a perforation roll. Since neither of these references teach this system, the combination of these references would not teach the claimed invention as a whole.

The Examiner has stated that without the disclosure of unexpected results, the specific perforating and bonding techniques claimed by the applicant are well-known and conventional in the art and would have been obvious. However, as stated in Applicant's response dated April 12, 2006, "The Examiner has not provided any documentary evidence in support of this statement." It is inappropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. *MPEP 2144.03*. Accordingly, the rejection should be withdrawn.

If the Examiner still believes that the claimed perforating, bonding, and spiking techniques are well-known and obvious, he is requested to submit documentary evidence in support thereof.

In an effort to further the prosecution of the application, claim 1 has been amended to include limitations previously recited in claim 2. Claim 1 now recites the step of spiking the resinous backing layer portion, and that the step of perforating, heat bonding, and spiking occur substantially concurrent with each other. Neither Böhm et al. or Beggs et al. individually or in combination disclose the step of spiking the resinous backing layer portion, or the steps of perforating, heat bonding, and spiking substantially concurrent with each other. Thus, the combination of the references, when taken as a whole, do not teach, suggest, or render claim 1 obvious.

Böhm et al. discloses a sheet-form textile material for lining noise-affected rooms. The textile material includes a backing layer 1 of felt, tufts 2, a layer 3 of foamed latex, an impermeable barrier layer 4, and a sound-insulating foamed back-coating 5. Böhm et al. does not disclose the steps of forming a non-perforated/solid resinous backing layer portion and perforating the resinous backing layer portion. Böhm et al. does not teach the step of spiking the resinous backing layer portion. In fact, Böhm et al. does not teach perforating or spiking any portion of the textile material.

Beggs et al. discloses a honeycomb noise attenuating panel 8 including a honeycomb core 10 and facing sheets 14 and 16. The panel of Beggs et al. does not include a resinous backing layer with perforations, and does not cure the failure of Böhm

et al. to teach the step of forming a resinous backing layer and then perforating the backing layer. Additionally, Beggs et al. does not teach the step of spiking the resinous backing layer. The panel of Beggs et al. is formed of structural materials and is not capable of being spiked as claimed. Neither Böhm et al. or Beggs et al. teach the steps of perforating a resinous backing layer and spiking the resinous backing layer. Thus, the combination of Böhm et al. and Beggs et al. when taken as a whole, does not teach, suggest, or render claim 1 obvious and unpatentable. Accordingly, the rejection should be withdrawn.

Claims 3-5 depend from independent claim 1, and are thus believed to be allowable for the reasons stated above. Furthermore, Böhm et al. and Beggs et al. do not teach, individually or in combination claims 3 and 4.

Claim 3 recites that the steps of perforating and heat bonding are performed concurrently. Böhm et al. and Beggs et al. do not teach, individually or in combination, the steps of perforating and heat bonding concurrently.

Claim 4 recites that the steps of spiking, perforating, and heat bonding are performed concurrently. Böhm et al. and Beggs et al. do not teach, individually or in combination, the steps of spiking, perforating, and heat bonding concurrently.

Claim 6 recites a system for making a noise absorber carpet. The system includes a fabric feeder roll, a backing roll, at least one resin feeder which feeds a resinous backing material in a sheet form onto the backing roll, and a perforation roll having perforation pins thereon which perforates the resinous backing material on the backing roll. As discussed below, neither Böhm et al. or Beggs et al. disclose a system for making noise absorber

carpet, as recited. Thus, the combination of Böhm et al. and Beggs et al. when taken as a whole, do not teach, suggest, or render claim 6 obvious and unpatentable.

Böhm et al. teaches applying a latex foam to the back of a carpet by means of a roller coater, drying the latex foam, applying a finish coat, drying the finish coat, and then compressing the carpet with cooled rolls. Böhm et al. does not teach a system that has a fabric feeder roll, a backing roll, resin feeder, and a perforation roll. Additionally, Böhm et al. does not teach the steps of applying a resinous material in sheet form onto a backing roll, and then perforating the resinous material on the backing roll with the perforation roll.

Beggs et al. discloses a panel. The panel is made of materials suitable for supporting loads. Beggs et al. does not disclose a system having a fabric feeder roll, a backing roll, a resin feeder, and a perforation roll, nor does it teach the steps of applying a resinous material in sheet form onto a backing roll, and then perforating the resinous material on the backing roll with the perforation roll. It would not be practical to form the panel of Beggs et al. using rolls, as recited in claim 6, due to the structure of the panel (i.e. honeycomb) and the types of materials being used. Accordingly, the combination of Böhm et al. and Beggs et al. does not render claim 6 obvious and unpatentable, and the rejection should be withdrawn.

Claims 7-9 depend from independent claim 6, and are thus believed to be allowable for the reasons stated above. Additionally, claim 8 recites that the backing roll includes spike depressions. Neither Böhm et al. or Beggs et al. disclose a backing roll with spike depressions.

Claim 10 recites a system for making a noise absorber carpet having a fabric feeder roll, a backing roll with perforation pins thereon, and at least one resin feeder which feeds a resinous backing material in a sheet form onto the backing roll. As discussed above with respect to claim 6, neither Böhm et al. or Beggs et al. disclose a system having a fabric feeder roll, a backing roll, and at least one resin feeder which feeds a resinous backing material in sheet form onto the backing roll. Additionally, they do not teach a system having a backing roll with perforation pins thereon. Thus, the combination of Böhm et al. and Beggs et al. when taken as a whole, do not teach, suggest, or render claim 10 obvious and unpatentable. Accordingly, the rejection should be withdrawn.

Claims 11-13 depend from independent claim 10, and are thus believed to be allowable for the reasons stated above.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration of the rejections is requested. Allowance of claims 1 and 3-13 at an early date is solicited.

If there are any fees due in connection with this matter, please charge Applicant's Deposit Account No. 01-0265.

Respectfully submitted,

/ Brandon Trego /

Brandon C. Trego
Attorney for Applicant
Reg. No. 53,702

App. No. 10/820,589
Amdt. dated September 22, 2006
Reply to Office Action of 6/23/2006

Brandon C. Trego
ADAMS EVANS P.A.
2180 Two Wachovia Center
Charlotte, North Carolina 28282
Tel. 704-375-9249
Fax: 704-375-0729
e-mail: bct@adamspat.com